

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1176-MSW-E TCEQ ID: RN101306082 CASE NO.: 34206**  
**RESPONDENT NAME: I.M.C. WASTE DISPOSAL, INC.**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1908 Waurika Freeway, Wichita Falls, Wichita County</p> <p><b>TYPE OF OPERATION:</b> Municipal solid waste processing facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 3, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563 TCEQ Regional Contact: Mr. Mike Taylor, Abilene Regional Office, MC R-3, (325) 698-6125 Respondent: Mr. Glenn Cobb, President, I.M.C. Waste Disposal, Inc., 1908 Waurika Freeway, Wichita Falls, Texas 76305 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 21, 2007</p> <p><b>Date of NOE Relating to this Case:</b> June 26, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed on January 4, 2008. The Respondent filed an answer and the case was referred to SOAH. An evidentiary hearing was scheduled for September 3, 2008. On or about August 27, 2008, the Executive Director received a signed Agreed Order from the Respondent.</p> <p><b>Current Compliance Status:</b> Since the date the Agreed Order was signed, the Respondent has completed the Technical Requirement by submitting a completed permit modification application on or about December 2, 2008.</p> <p><b>MSW:</b> Failed to submit a permit modification application to incorporate the 2006 rule revisions to 30 TEX. ADMIN. CODE chapter 330 [30 TEX. ADMIN. CODE § 330.201(b)].</p>	<p><b>Total Assessed:</b> \$1,050</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$150/\$900</p> <p>The Respondent has paid \$150 of the administrative penalty. The remaining amount of \$900 of the administrative penalty shall be payable in 9 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Technical Requirements:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"><li>1. Within 15 days, submit a complete permit modification application.</li><li>2. Within 30 days, submit written certification to demonstrate compliance with the above Ordering Provision.</li></ol>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

<b>DATES</b>	Assigned	2-Jul-2007	Screening	18-Jul-2007	EPA Due	
	PCW	23-Oct-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	I.M.C. Waste Disposal, Inc.
Reg. Ent. Ref. No.	RN101306082
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34206	No. of Violations	1	
Docket No.	2007-1176-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Cynthia McKaughan	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	5% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$50</b>
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Notes: There was one previous NOV for the same or similar violations.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$20
Approx. Cost of Compliance	\$500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,050</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<b>\$1,050</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,050</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral offered for non-expedited cases.

<b>PAYABLE PENALTY</b>	<b>\$1,050</b>
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Screening Date 18-Jul-2007

Docket No. 2007-1176-MSW-E

PCW

Respondent I.M.C. Waste Disposal, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34206

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101306082

Media [Statute] Municipal Solid Waste

Enf. Coordinator Cynthia McKaughan

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

There was one previous NOVs for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

<b>Screening Date</b> 18-Jul-2007		<b>Docket No.</b> 2007-1176-MSW-E		<b>PCW</b>																	
<b>Respondent</b> I.M.C. Waste Disposal, Inc.		<i>Policy Revision 2 (September 2002)</i>																			
<b>Case ID No.</b> 34206		<i>PCW Revision June 26, 2007</i>																			
<b>Reg. Ent. Reference No.</b> RN101306082																					
<b>Media [Statute]</b> Municipal Solid Waste																					
<b>Enf. Coordinator</b> Cynthia McKaughan																					
<b>Violation Number</b>	<input type="text" value="1"/>																				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 330.201(b)"/>																				
<b>Violation Description</b>	Failed to submit a permit modification application to incorporate the 2006 rule revisions to 30 Tex. Admin. Code chapter 330. Specifically, Respondent failed to submit a permit modification application to revise the Site Operation Plan ("SOP") that complied with 30 Tex. Admin. Code §§ 305.70 and 330.201 through 330.249 by November 27, 2006.																				
<b>Base Penalty</b>					<input type="text" value="\$10,000"/>																
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>						<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Harm</b>																			
	<b>Release</b>	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>																		
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																		
<b>Percent</b> <input type="text" value="0%"/>																					
<b>&gt;&gt; Programmatic Matrix</b>																					
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;"><b>Falsification</b></td> <td><input type="text" value="X"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>						Major	Moderate	Minor	<b>Falsification</b>	<input type="text" value="X"/>	<input type="text"/>	<input type="text"/>								
		Major	Moderate	Minor																	
	<b>Falsification</b>	<input type="text" value="X"/>	<input type="text"/>	<input type="text"/>																	
<b>Percent</b> <input type="text" value="10%"/>																					
<b>Matrix Notes</b>	<input type="text" value="Less than 30 percent of the rule requirement was met."/>																				
<b>Adjustment</b>					<input type="text" value="\$9,000"/>																
					<input type="text" value="\$1,000"/>																
<b>Violation Events</b>																					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>		<input type="text" value="58"/>																
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>																		
	monthly	<input type="text"/>																			
	quarterly	<input type="text" value="X"/>																			
	semiannual	<input type="text"/>																			
	annual	<input type="text"/>																			
	single event	<input type="text"/>																			
One quarterly event is recommended.																					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b> <input type="text" value="\$20"/>			<b>Violation Final Penalty Total</b> <input type="text" value="\$1,050"/>																		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$1,050"/>																

**Economic Benefit Worksheet****Respondent** I.M.C. Waste Disposal, Inc.**Case ID No.** 34206**Reg. Ent. Reference No.** RN101306082**Media** Municipal Solid Waste**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$500	21-May-2007	10-Mar-2008	0.8	\$20	n/a	\$20
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to submit an administratively and technically complete permit modification application in compliance with 30 Tex. Admin. Code ch. 330. Date Required is the investigation date and Final Date is the estimated date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$500

**TOTAL**

\$20

## Compliance History

Customer/Respondent/Owner-Operator:	CN600345607	I.M.C. Waste Disposal, Inc.	Classification: AVERAGE	Rating: 1.80
Regulated Entity:	RN101306082	IMC WASTE DISPOSAL	Classification: AVERAGE	Site Rating: 0.60
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING		PERMIT	2229
	INDUSTRIAL AND HAZARDOUS WASTE		EPA ID	TXD980867246
	TRANSPORTATION			
	INDUSTRIAL AND HAZARDOUS WASTE		SOLID WASTE REGISTRATION #	85629
	TRANSPORTATION		(SWR)	
Location:	SLUDGE		REGISTRATION	20639
	1908 WAURIKA FWY, WICHITA FALLS, TX, 76305		Rating Date: 9/1/2006 Repeat Violator: NO	
	REGION 03 - ABILENE			
	July 26, 2007			
	Enforcement			
Compliance Period:	July 26, 2002 to July 26, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Cynthia McKaughan Phone: (512) 239-0735

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |   |            |          |
|---|------------|----------|
| 1 | 06/10/2003 | (61683)  |
| 2 | 06/22/2004 | (274063) |
| 3 | 07/25/2005 | (399523) |
| 4 | 12/20/2005 | (437393) |
| 5 | 12/18/2006 | (532980) |
| 6 | 06/27/2007 | (560410) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/14/2005 (437393)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.111(a)  
30 TAC Chapter 330, SubChapter G 330.150(1)

Description: Failure to include the additional operational area being utilized east of the existing permit/registration boundary into the Site Operation Plan/Site Development Plan.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
I.M.C. WASTE DISPOSAL, INC.;  
RN101306082**

§  
§  
§  
§  
§  
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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1176-MSW-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding I.M.C. Waste Disposal, Inc. ("IMC") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and IMC, appear before the Commission and together stipulate that:

1. IMC owns and operates a municipal solid waste processing facility at 1908 Waurika Freeway in Wichita Falls, Wichita County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and IMC agree that the Commission has jurisdiction to enter this Agreed Order, and that IMC is subject to the Commission's jurisdiction.
4. IMC received notice of the violations alleged in Section II ("Allegations") on or about July 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by IMC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). IMC has paid one hundred fifty dollars (\$150.00) of the administrative penalty. The remaining

amount of nine hundred dollars (\$900.00) of the administrative penalty shall be payable in nine monthly payments of one hundred dollars (\$100.00) each.

The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If IMC fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of IMC to meet the payment schedule of this Agreed Order constitutes the failure by IMC to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and IMC have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that IMC has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

IMC is alleged to have violated 30 TEX. ADMIN. CODE § 330.201(b) by failing to submit a permit modification application to incorporate the 2006 rule revisions to 30 TEX. ADMIN. CODE chapter 330. Specifically, IMC failed to submit a permit modification application to revise the Site Operation Plan ("SOP") that complied with 30 TEX. ADMIN. CODE § 305.70 and §§ 330.201 through 330.249 by November 27, 2006.

### III. DENIALS

IMC generally denies each allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that IMC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and IMC's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: I.M.C. Waste Disposal, Inc., Docket No. 2007-1176-MSW-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. IMC shall undertake the following technical requirements:

- a. Within 15 days after the effective date of this Agreed Order, submit a complete permit modification application that complies with 30 TEX. ADMIN. CODE § 305.70 and §§ 330.201 through 330.249 to:

Municipal Solid Waste Permits Section  
Waste Permits Division, MC 124  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711

- b. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and

am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Mike Taylor, Waste Section, Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon IMC. IMC is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If IMC fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, IMC's failure to comply is not a violation of this Agreed Order. IMC shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. IMC shall notify the Executive Director within seven days after IMC becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by IMC shall be made in writing to the Executive Director. Extensions are not effective until IMC receives written

approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

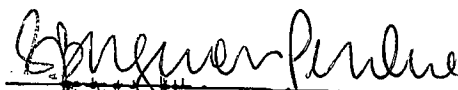
6. This Agreed Order, issued by the Commission, shall not be admissible against IMC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to IMC, or three days after the date on which the Commission mails notice of the Order to IMC, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

IMC Waste Disposal, Inc.  
 TCEQ Permit No. 3007-T176-MRW-H  
 Page 02

## SIGNATURE PAGE

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/16/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of my permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)

Authorized representative of  
 IMC Waste Disposal, Inc.

Title

CFO - CHIEF FINANCIAL OFFICER